

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:05-CR-249-BO
NO. 5:15-CV-502-BO

GERALD THOMAS EVANS,)
Petitioner,)
)
v.) ORDER
)
UNITED STATES OF AMERICA,)
Respondent.)

This matter is before the Court on petitioner's motion to vacate under 28 U.S.C. § 2255 and the government's corresponding motion to dismiss. Petitioner argues that, in light of the Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), his predicate convictions for breaking and entering no longer constitute crimes of violence, thus his sentence under § 924(e) is unconstitutional. Pursuant to 15-SO-2, the Office of the Federal Public Defender is appointed to assess the viability of petitioner's *Johnson* claim and is DIRECTED to file a response to petitioner's *Johnson* claim within thirty (30) days of the date this Order is entered on the docket.

SO ORDERED this 13 day of January, 2016.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE